

Remarks

Claims 1-11, 13-41, 43-70 and 72-175 remain pending and stand rejected. Claims 1, 31, 61, 90, 119 and 148 are amended herein. The Assignee respectfully traverses the rejections and requests allowance of claims 1-11, 13-41, 43-70 and 72-175.

Claim Amendments

Claim 1 is amended to include the provision of "storing the graphical format of the performance information in a repository...." Claims 31, 90 and 119 have been amended in a similar fashion.

Claims 61 and 148 are amended to further provide that the database system is configured to store the graphical format of the performance information.

All current amendments are supported in the specification at page 45, line 14, to page 46, line 30, and Figs. 28-30, which discuss storing HTML reports containing performance information in an HTML fragment repository for future use.

Propriety of Final Status of Office Action

The latest Office action has been made final. (Page 3, item 39, of the final Office action.) The Assignee respectfully disagrees with the propriety of the finality of the action. Under MPEP § 706.07(a), "a second or any subsequent action on the merits in any application or patent undergoing reexamination proceedings *will not be made final if it includes a rejection, on newly cited art*, other than information submitted in an information disclosure statement filed under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p), *of any claim not amended by applicant or patent owner in spite of the fact that other claims may have been amended to require newly cited art.*" (Emphasis supplied.)

In the previous Office action, independent claims 1, 31, 61, 90, 119 and 148, in addition to many dependent claims, were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,571,285 to Groath et al. (hereinafter "Groath"). In the associated response, independent claims 1, 31 and 61 were amended in an effort to obtain allowance thereof. However, independent claims 90 and 119 were not amended. Further, independent claim 148 was merely renumbered to alleviate a previous claim-numbering error in the original application.

In the current Office action, new grounds for rejection under 35 U.S.C. § 103(a) of independent claims 1, 31, 61, 90, 119 and 148, as well as other related dependent claims, have been made employing Groath in combination with newly cited art, namely U.S. Patent No. 5,751,933 to Dev et al. (hereinafter "Dev"). As claims 90, 119 and 148 have not been amended, the Assignee respectfully asserts that the finality of the current Office action is improper under MPEP § 706.07(a), regardless of the previously presented amendments to claims 1, 31 and 61. Thus, the Assignee respectfully requests the finality of the current Office action be withdrawn.

Claim Rejections Under 35 U.S.C. § 103

Claims 1-11, 13-16, 18, 19, 27-41, 43-46, 48, 49, 57-70, 72-75, 77, 78, 86-104, 106, 107, 115-133, 135, 136, 144-161, 163, 164 and 172-175 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Groath and Dev. The Assignee respectfully traverses the rejection in light of the current amendments to claims 1, 31, 61, 90, 119 and 148, as well as the following discussion.

Amended claim 1 sets forth a method for providing performance information of a communication network that includes, in part, "generating a graphical format of the performance information; and *storing the graphical format of the performance information in a repository....*" (Emphasis supplied.) Claims 31, 90 and 119 are similarly amended. Further, claims 61 and 148 provide a performance management system having "a database system configured to store the performance information and *the graphical format of the performance information.*" (Emphasis supplied.) In some examples, storing the graphical format of the performance information allows faster presentation of the same graphical format to multiple users, as the graphical format need not be generated from the same performance information more than once.

Groath discloses "an architecture which is capable of monitoring a network for events and checking system functions and resources." Column 10, lines 2-6. Also, "[r]eports on system performance, errors, etc. can be generated and output." Column 10, lines 9-10. In addition, the network status data generated "is then stored in a database. *Thereafter, network availability is conveyed graphically.*" (Summary, page 2, lines 21-23.) More specifically, Fig. 16 indicates that data matching requested parameters for a report are retrieved from a database and then used to generate a graph. (See also column 65, lines 23-51.) However, Groath does not teach or suggest *storing a graphical format of performance information*, as provided for in claims 1, 31,

61, 90, 119 and 148.

Similarly, Dev provides a network management system which "can poll or communicate with certain network entities and can infer the status of network connectors and other network entities for which polling is impossible or impractical." (Abstract.) A user interface of the system provides information concerning the network to a user. (Column 12, lines 27 and 28.) For example, views showing performance information pertaining to a selected network device may be provided by way of the user interface. (Column 14, lines 54-67.) The system further includes "a database manager 16 which manages the storage and retrieval of disk-based data. Such data include configuration data, an event log, statistics, history and current state information." (Column 3, lines 60-63.) However, Dev does not teach or suggest storing a graphical format of performance information, as provided for in claims 1, 31, 61, 90, 119 and 148.

Thus, given the foregoing, the Assignee asserts that claims 1, 31, 61, 90, 119 and 148 are allowable in view of the combination of Groath and Dev, and such indication is respectfully requested.

In addition, claims 2-11, 13-16, 18, 19 and 27-30 depend from independent claim 1, claims 32-41, 43-46, 48, 49 and 57-60 depend from independent claim 31, claims 62-70, 72-75, 77, 78 and 86-89 depend from independent claim 61, claims 91-104, 106, 107 and 115-118 depend from independent claim 90, claims 120-133, 135, 136 and 144-147 depend from independent claim 119, and claims 149-161, 163, 164 and 172-175 depend from independent claim 148. Thus, each of these claims incorporates the limitations of their corresponding independent claims. Therefore, the Assignee contends that claims 2-11, 13-16, 18, 19, 27-30, 32-41, 43-46, 48, 49, 57-60, 62-70, 72-75, 77, 78, 86-89, 91-104, 106, 107, 115-118, 120-133, 135, 136, 144-147, 149-161, 163, 164 and 172-175 are allowable for at least the reasons given above with respect to independent claims 1, 31, 61, 90, 119 and 148, and such indication is respectfully requested.

Therefore, given the foregoing discussion, the Assignee respectfully requests the withdrawal of the obviousness rejection of claims 1-11, 13-16, 18, 19, 27-41, 43-46, 48, 49, 57-70, 72-75, 77, 78, 86-104, 106, 107, 115-133, 135, 136, 144-161, 163, 164 and 172-175.

Claims 17, 47, 76, 105, 134 and 162 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Groath and U.S. Patent No. 6,411,606 to Moura et al. (hereinafter "Moura").

Also, claims 20, 50, 79, 108, 137 and 165 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Groath and U.S. Patent No. 5,519,830 to Opoczynski (hereinafter "Opoczynski"). In addition, claims 21-26, 51-56, 80-85, 109-114, 138-143 and 166-171 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Groath, Opoczynski and Moura. In addition, given the use of Dev in the rejection of the independent claims, the Assignee assumes that Dev is also employed as a basis for each of these rejections. The Assignee respectfully traverses these rejections in light of the current amendments to claims 1, 31, 61, 90, 119 and 148, in conjunction with the foregoing remarks.

More specifically, since claims 17 and 20-26 depend from independent claim 1, claims 47 and 50-56 depend from independent claim 31, claims 76 and 79-85 depend from independent claim 61, claims 105 and 108-114 depend from independent claim 90, claims 134 and 137-143 depend from independent claim 119, and claims 162 and 165-171 depend from independent claim 148, each of these claims incorporates the provisions of their respective independent claims. Thus, the Assignee asserts that claims 17, 20-26, 47, 50-56, 76, 79-85, 105, 108-114, 134, 137-143, 162 and 165-171 are allowable for at least the reasons provided above for claims 1, 31, 61, 90, 119 and 148, as none of Groath, Dev, Opoczynski or Moura teach or suggest storing a graphical format of performance information, as provided for in the independent claims. Therefore, the Assignee respectfully requests withdrawal of the obviousness rejections of claims 17, 20-26, 47, 50-56, 76, 79-85, 105, 108-114, 134, 137-143, 162 and 165-171.

Conclusion

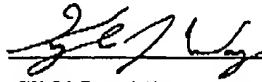
The prior art made of record and not relied upon (i.e., U.S. Patent No. 6,144,961 to de la Salle, U.S. Patent No. 6,453,345 to Trcka et al., and U.S. Patent No. 5,793,974 to Messinger) have been reviewed and are not considered to teach or suggest the current invention as claimed.

Based on the above remarks, the Assignee submits that claims 1-11, 13-41, 43-70 and 72-175 are allowable. Additional reasons in support of patentability exist, but such reasons are omitted in the interests of clarity and brevity. The Assignee thus respectfully requests allowance of claims 1-11, 13-41, 43-70 and 72-175.

The Assignee believes no additional fees are due with respect to this filing. However, should the Office determine additional fees are necessary, the Office is hereby authorized to charge Deposit Account No. 21-0765.

Respectfully submitted,

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